

109TH CONGRESS
2D SESSION

S. 4121

To provide optional funding rules for employers in applicable multiple employer pension plans.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2006

Mr. STEVENS introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To provide optional funding rules for employers in applicable multiple employer pension plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TREATMENT OF LIABILITY FOR CERTAIN MUL-**
4 **TIPLE EMPLOYER PLANS.**

5 (a) IN GENERAL.—In the case of an applicable pen-
6 sion plan—

7 (1) if an eligible employer elects the application
8 of subsection (b), any liability of the employer with
9 respect to the applicable pension plan shall be deter-
10 mined under subsection (b), and

1 (2) if an eligible employer does not make such
 2 election, any liability of the employer with respect to
 3 the applicable pension plan shall be determined
 4 under subsection (c).

5 (b) ELECTION TO SPIN OFF LIABILITY.—

6 (1) IN GENERAL.—If an eligible employer
 7 elects, within 180 days after the date of the enact-
 8 ment of this Act, to have this subsection apply, the
 9 applicable pension plan shall be treated as having,
 10 effective January 1, 2006, spun off such employer's
 11 allocable portion of the plan's assets and liabilities
 12 to an eligible spunoff plan and the employer's liabil-
 13 ity with respect to the applicable pension plan shall
 14 be determined by reference to the eligible spunoff
 15 plan in the manner provided under paragraph (2).
 16 The employer's liability, as so determined, shall be
 17 in lieu of any other liability to the Pension Benefit
 18 Guaranty Corporation or to the applicable pension
 19 plan with respect to the applicable pension plan.

20 (2) LIABILITY OF EMPLOYERS ELECTING SPIN-
 21 OFF.—

22 (A) ONGOING FUNDING LIABILITY.—

23 (i) IN GENERAL.—In the case of an
 24 eligible spunoff plan, the amendments
 25 made by section 401, and subtitles A and

1 B of title I, of the Pension Protection Act
2 of 2006 shall not apply to plan years be-
3 ginning before the first plan year for which
4 the plan ceases to be an eligible spunoff
5 plan (or, if earlier, January 1, 2017), and
6 except as provided in clause (ii), the em-
7 ployer maintaining such plan shall be liable
8 for ongoing contributions to the eligible
9 spunoff plan on the same terms and sub-
10 ject to the same conditions as under the
11 provisions of the Employee Retirement In-
12 come Security Act of 1974 and the Inter-
13 nal Revenue Code of 1986 as in effect be-
14 fore such amendments. Such liability shall
15 be in lieu of any other liability to the Pen-
16 sion Benefit Guaranty Corporation or to
17 the applicable pension plan with respect to
18 the applicable pension plan.

19 (ii) INTEREST RATE.—In applying
20 section 302(b)(5)(B) of the Employee Re-
21 tirement Income Security Act of 1974 and
22 section 412(b)(5)(B) of the Internal Rev-
23 enue Code of 1986 (as in effect before the
24 amendments made by subtitles A and B of
25 title I of the Pension Protection Act of

2006) and in applying section 4006(a)(3)(E)(iii) of such Act (as in effect before the amendments made by section 401 of such Act) to an eligible spunoff plan for plan years beginning after December 31, 2007, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(B) TERMINATION LIABILITY.—If an eligible spunoff plan terminates under title IV of the Employee Retirement Income Security Act of 1974 on or before December 31, 2010, the liability of the employer maintaining such plan resulting from such termination under section 4062 of the Employee Retirement Income Security Act of 1974 shall be determined in accordance with the assumptions and methods described in subsection (c)(2)(A). The employer's liability, as so determined, shall be in lieu of any other liability to the Pension Benefit Guar-

1 anty Corporation or to the applicable pension
2 plan with respect to the applicable pension plan.

3 (c) LIABILITY OF EMPLOYERS NOT ELECTING SPIN-
4 OFF.—

5 (1) IN GENERAL.—If an applicable pension plan
6 is terminated under the Employee Retirement In-
7 come Security Act of 1974, an eligible employer
8 which does not make the election described in sub-
9 section (b) shall be liable to the corporation with re-
10 spect to the applicable pension plan (in lieu of any
11 other liability to the Pension Benefit Guaranty Cor-
12 poration or to the applicable pension plan with re-
13 spect to the applicable pension plan) in an amount
14 equal to the fractional portion of the adjusted un-
15 funded benefit liabilities of such plan as of Decem-
16 ber 31, 2005, determined without regard to any ad-
17 justed unfunded benefit liabilities to be transferred
18 to an eligible spunoff plan pursuant to subsection
19 (b).

20 (2) DEFINITIONS.—For purposes of this sub-
21 section—

22 (A) ADJUSTED UNFUNDED BENEFIT LI-
23 ABILITIES.—The term “adjusted unfunded ben-
24 efit liabilities” means the amount of unfunded
25 benefit liabilities (as defined in section

1 4001(a)(18) of the Employee Retirement In-
 2 come Security Act of 1974), except that the in-
 3 terest assumption shall be the rate of interest
 4 under section 302(b) of the Employee Retire-
 5 ment Income Security Act of 1974 and section
 6 412(b) of the Internal Revenue Code of 1986,
 7 as in effect before the amendments made by the
 8 Pension Protection Act of 2006, for the most
 9 recent plan year for which such rate exists.

10 (B) FRACTIONAL PORTION.—The term
 11 “fractional portion” means a fraction, the nu-
 12 merator of which is the amount required to be
 13 contributed to the applicable pension plan for
 14 the 5 plan years ending before December 31,
 15 2005, by such employer, and the denominator
 16 of which is the amount required to be contrib-
 17 uted to such plan for such plan years by all em-
 18 ployers which do not make the election de-
 19 scribed in subsection (b).

20 (d) OTHER DEFINITIONS.—For purposes of this sec-
 21 tion—

22 (1) APPLICABLE PENSION PLAN.—The term
 23 “applicable pension plan” means a single employer
 24 plan which—

1 (A) was established in the State of Alaska
 2 on March 18, 1967, and

3 (B) as of January 1, 2005, had 2 or more
 4 contributing sponsors at least 2 of which were
 5 not under common control.

6 (2) ALLOCABLE PORTION.—The term “allocable
 7 portion” means, with respect to any eligible em-
 8 ployer making an election under subsection (b), the
 9 portion of an applicable pension plan’s liabilities and
 10 assets which bears the same ratio to all such liabil-
 11 ities and assets as such employer’s share (deter-
 12 mined under subsection (c) as if no eligible employer
 13 made an election under subsection (b)) of the excess
 14 (if any) of—

15 (A) the liabilities of the plan, valued in ac-
 16 cordance with subsection (c), over

17 (B) the assets of the plan,
 18 bears to the total amount of such excess.

19 (3) ELIGIBLE EMPLOYER.—An “eligible em-
 20 ployer” is an employer which participated in an eli-
 21 gible multiple employer plan on or after January 1,
 22 2000.

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